



HUMAN RIGHTS AND ENVIRONMENTAL MOVEMENTS

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The human rights and environmental movements as they are classified by scholars. As mentioned in Chapter 1, some scholars and activists hold the view that human rights and environmental movements are 'new', encompassing all strata of society. They are concerned with the whole society and not a particular section, community or class.

The term 'human rights' is now frequently used by social and political activist groups in the context of the rights of an individual which are 'natural', inherent in our nature 'and without which we cannot live as human beings'. These rights should not be violated by the state. In other words, they require to be protected against the authority of the state. At the same time, ironically, it is expected that they need to be protected and enhanced by the state. These rights are generally included in 'civil' and 'democratic' rights. In the course of history these rights have different philosophical roots. Their meanings have undergone change from time to time and in different contexts. For conservatives and status quoists human rights include the rights embodied in religion which justify ownership of private property including the system of slavery and bonded labour. For the liberals and leftists 'equality' and dignity of all individuals to sustain life are the main human rights. There is a good deal of debate among political philosophers and jurists on what human rights are and whether they are natural (Tuck 1979; Winston 1989; Baxi 2002).

In India the Protection of Human Rights Act, 1993 says, "human rights" means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India.' Fundamental rights which include freedom of expression, association, religious freedom, equality before law, etc. and directive principles are related to socio-economic rights, such as, rights to education, equal wages, dignity of an individual indiscriminate before law, etc. The former are justiciable whereas the latter remain guidelines for legislation. They both cover a broad spectrum of different civil and democratic rights. Justice P.N. Bhagwati expanded the scope of Article 21 of the constitution to incorporate the right to food, clothing and shelter in term 'life' in the Article. The question arises whether the right to life is limited only to protection of limb or faculty or does it go further ... , we think that the right to life includes the right to live with dignity and all that goes along with it; namely, the necessities such as adequate nutrition, clothing and shelter' (quoted by Mody 2000: 222). The international covenants include social and cultural rights (1966), civil and political rights (1966), and the optional protocol to the civil covenant (1976).

The discourse on rights of an individual and movements around these ideas have a long history rooted in western society. The movements that developed in the west during the French and American revolutions during the eighteenth century influenced a small section of Indian intellectuals. Social reform and political movements of different groups and the Congress provided a platform for discussion and assertion of the rights. The proponents of the rights were social reformers, liberal political leaders championing for equality of Indians as 'citizens' with the British before law and there were also the champions primarily concerned with protecting the economic interests of the landed class. Social reformers worked for reforming social customs and traditions so as to protect women and the lower strata of society. The liberals were concerned with individual freedom of expression and association and the recognition of equality before law for all citizens. One of the many factors which led to the organisation of the Indian National Congress in 1885 was the failure of Indians to get the Ilbert Bill passed in its original form proposing to give Indian magistrates the power to try British subjects in criminal cases. By the turn of the century, this consciousness crystallised in a new generation, according to a Congress leader 'with new thoughts and new ideas, impatient of its dependent position and claiming its rights as free citizens of the British Empire' (quoted by Dutta 1998: 277). Sitharamam Kakarala observes, the rights consciousness was thus concomitant to the emergence of organized landed gentry and middle class. They tended to perceive 'civil liberties' as something that only advanced sections of the natives can enjoy and appreciate. In other words, 'rights' became 'advantages' conferred by the colonial rule on the advanced sections of India. This attitude was further consolidated by the leaders

of the Indian National Congress (INC) during the first three decades of its practice (1994:135).

In 1918 the Congress prepared a declaration of rights submitted to the British parliament. It included the freedoms of speech, expression and assembly, the right to be tried according to law, and above all, freedom from racial discrimination (Dutta 1998). Later, the Motilal Nehru committee of 1928 demanded all fundamental rights to Indians 'which had been denied to them'. Though the demands were rejected by the British government, the Congress passed a resolution on fundamental rights in the Karachi session in 1931. In 1936, Jawaharlal Nehru took the initiative to form the first civil liberties organisation. The Indian Civil Liberties Union (ICLU) was formed in Bombay in 1936 with Rabindranath Tagore as its president. The idea of civil liberties', Nehru said in his address to the founding conference of the ICLU, 'is to have the right to oppose the government' (Quoted by Dutta 1998: 279). In 1945 Sir Tej Bahadur Sapru brought forth a constitutional proposal stressing the importance of fundamental rights. They were incorporated in the Indian constitution. Thus, liberties and rights enshrined in the Indian constitution were product of the freedom struggle of the people of India (Haragopal and Bala-gopal 1998:355-56). The historical account of the civil rights movements during the colonial period is sketchy and very brief. Rigorous analysis of the various phases of the discourse and involvement of various social forces in the assertion of such rights needs to be undertaken.

The human rights movement in the post-independence period is generally divided into two phases: pre- and post-Emergency. The Civil Liberties Committee was formed in West Bengal in 1948 to protest against the state repression on the communists (Dutta 1998). There is no account of this phase of the movement. The major civil liberties movement began in the late 1960s with the brutal attack by the state on the naxalites (Kakarala 1994). The movement raised the issue of 'democratic rights' of the oppressed sections of society for justice and equality. While documenting the struggle, Kakarala argues that democratic rights are needed by those who have to struggle for justice while the fundamental rights are adequate for the privileged.... The struggle for democratic rights in essence is the struggle to assert the rights already guaranteed formally but not ensured in practice. Denial of democratic rights takes the form of an attack on the right to assert rights already guaranteed (1994: 91-95).

The Emergency imposed by Indira Gandhi on 25 June 1975 brought new widespread impetus to the civil rights movement. She suspended the fundamental rights claiming that they were used by the privileged stratum to prevent her from carrying out programmes in the interest of the 'majority' (Rubin 1987). The liberal intelligentsia was shocked by the realisation of the 'built-in authoritarian proclivities within the political system, and the pitfalls endemic in any assumption of the durability of the democratic process, as heretofore. This shaped the intellectual and political milieu that led to the origin of the civil and democratic rights movement in its present shape' (Ray 1986: 1203). Many of the present-day civil liberties organisations came up during this period to fight for civil and democratic rights.

At present there are a number of groups in different states working on human rights. The most important and known are the People's Union for Civil Liberties (PUCL) and the People's Union for Democratic Rights (PUDDR). They have their formal or informal branches and/or network organisations in many states with the same names, though autonomous. Besides, the important and active state-level organisations are the Andhra Pradesh Civil Liberties Committee (APCLC), the Committee for the Protection of Democratic Rights (CPDR) in Maharashtra; the Association for Democratic Rights (AFDR) in Punjab; the Naga People's Movement for Human Rights in Nagaland; Lok Adhikar Sangh in Gujarat; Citizens for Democracy in Delhi, Mumbai and other places. These organisations are not membership-based. They have office bearers such as the convenor, president, secretary, etc. In some places the executive committee functions collectively. They do not have defined objectives or constitutions to lay down their functions. As and when needed they form committees and subcommittees to carry out certain functions. Committees of Concerned Citizens have been formed in several

states from issue to issue and time to time. Sometimes they try to mediate between the state and political groups engaged in direct actions and become the victims of so-called 'encounter' actions of the police or military. They have an ad hoc character in terms of organisation and functioning. Such loose organisational structures may provide flexibility for undertaking activities. But they may lack continuity of members and activities. Except the study on the human rights movement in Andhra Pradesh by Sitharamam Kakatala which is yet to be published, we do not have a systematic analysis of the organisational structure, leadership and working of national- or state-level human rights groups. However, several observers note that these groups are often confined to a small group of individuals largely from the academia, media, writers, artists, lawyers and other professionals. Except in Andhra Pradesh where APCLC and APDR have attracted relatively large numbers of participants, human rights groups are mainly from the middle class (Ray 1986; Kakarala 1993).

In 1976 under the leadership of Jayprakash Narayan, the People's Union for Civil Liberties and Democratic Rights (PUCL & PUDR) came into existence. Soon after, it split into two organisations: PUCL and PUDR. The division is primarily ideological. The PUCL divides civil rights and democratic rights and generally does not take up the latter. It has a broad liberal perspective for social change in which the constitutional path is emphasised over mass struggles. The PUDR on the other hand believes that social, economic and political rights cannot be separated and they are needed to support the movements which undertake social and economic issues of the oppressed classes. The PUDR believes that the struggle for civil liberties is part and parcel of the entire struggle of the oppressed for a better life. Though the struggle for civil liberties is not a direct struggle for improving conditions of the masses and their rights, it supports their demands. They demand the enforcement of the rights enshrined in the constitution and ensuring implementation of the laws that are passed from time to time to help the poorer sections of society (Haragopal and Balagopal 1998). Nandita Haksar argues that 'the civil liberties movement does not offer an alternative political ideology. The sole purpose of the movement is to act as a watchdog monitoring the state. Other complex social, political, economic and cultural problems facing our country have to be solved through other political processes and movements' (1991: 5). Despite ideological differences both occasionally function together on certain issues like police repression, rights of prisoners, communalism, etc.

Human rights movements face a constant dilemma on the issue of violence practiced by the strugglers and activists on the one hand, and the violence of the state on the other. In 1948 the Civil Liberties Committee of West Bengal which protested against the repression of the state on the communist activists faced the question of its stand on the violence practised by the mass movement. Dutta observes,

Most of the communist activists, whose rights were under attack, were accused of practicing violence—and the liberals, who joined the CLC, had to answer the government's charge that they were condoning violence. On this issue, the CLC leaders took a stand that was, in fact, an extension of the ideal that the primary task of the movement was to oppose the authoritarian tendencies of the state. In defending the communists, they presumed that the state violence was more harmful to civil society than the violence against the state practiced by the revolutionaries (1998: 280-81).

Dutta further observes,

While the PUCL and some other organizations are yet to come up with a clear stand on the issue (of violence), the APDR, APCLC, PUDR and the CPDR have evolved a common viewpoint that state violence, along with the violence perpetrated by the dominant castes and classes should be the primary target of their campaigns, as this is the root of social violence in general (1998: 285).

Now in recent years since the late 1980s, all those who stand for democratic rights of the masses do not condone and defend the violence of the activists, particularly private violence practiced by so-called terrorist groups. The APCLC does not defend the arbitrary killing of civilians by the People's War Group (PWG) activists. But at the same time they are 'often faced with a crucial question, i.e., in the event of the state resorting to repression, do the people have a right to resist? What should be the form and modus operandi of such movements? Supposing the movements become lawless and violent, how should such movements be treated?' (Haragopal and Balagopal 1998: 366).

Different human rights groups have taken up a number of issues during the post-independence period. A.R. Desai (1986, 1990) has documented various instances of violation of human rights of the poor in the 1960s to 1980s. Bennett Rubin (1987) analyses the cases of human rights violations. They are: land and labour dispute, police lawlessness, suppression of free expression, urban housing, academic freedom, communal/regional conflict, treatment of women, etc. Nandita Haksar divides them into the following four categories:

1. Issues relating to rights of prisoners including undertrials, illegal detentions and prison conditions.
2. Violence by the police (later the armed forces) including torture in lock-ups, extra-judicial killings, illegal firing and death in false encounters.

3. Anti-people laws, including various disturbed areas laws, TADA/MISA/POTO and laws affecting certain sections of the oppressed such as the Forest Act.
4. Oppression of the state on various unorganised sections of society such as bonded labourers, tribals, slum dwellers, landless labourers and of the religious minorities.

One of the common activities of many human rights groups is to document the violation of human rights in particular instances by the police, armed forces, other organs of the state and also the dominant castes/classes. Fact-finding teams consisting of five-six or more activists visit the place, record evidences from the victims, police authorities, media and other sections of society'. These reports are widely disseminated among the media and middle class. Democratic institutions like the Parliament, state assembly, electronic and printed media are widely used to highlight the cases of atrocities. Signature campaigns (including e-mails), petitions, write-ups in media as well as dharmas, public meetings and processions are also organised to pressurise the authorities for action against those who violated human rights. Public interest litigations are also used to seek judicial help for redressing the suffering of the victims (Ray 1986). However, they have limited use (Rubin 1987).

Under the pressures of the United Nations Organisation (UNO), Amnesty International and human rights groups within the country, the Indian parliament passed the Protection of Human Rights Bill in 1993 which became an Act in 1994. Under this Act, the National Human Rights Commission (NHRC) came into existence. The proposal of the formation of the commission was not enthusiastically received by many human activists. Justice V.R. Krishna Iyer observed:

It is a reaction in panic, a shame that we should think in terms of a Commission on Human Rights only because Sweden or the United States Congress or some other country tells [us]. You are not respecting human rights. Therefore, have a Commission if you want help [financial aid] from us... [the NHRC is] an optical illusion, cosmetic coloration, opium for the people at home and brown sugar for countries abroad, a legislative camouflage, a verbal wonder which conceals more than it reveals. An ineffectual angel which beats its golden wings in the void in vain (quoted by Vijayakumar 2000: 216).

The commission receives complaints from victims and human rights groups. It undertakes investigations in these cases. The commission also initiates action on its own on the basis of newspaper reports. Under the Act some states—West Bengal, Himachal Pradesh, Assam, Madhya Pradesh, etc.—have also formed the state Human Rights Commissions. The national and state commissions have intervened in a large number of cases related to custodial deaths, encounter deaths, cases of rape, child labour, ill treatment to refugees, etc. By now we have a few published documents on the NHRC (Palai 1998; Vijayakumar 2000; Mohapatra 2001). Mohapatra believes that the NHRC has gained credibility and acceptance in the country and abroad. According to him it is not 'a toothless tiger' because most of its recommendations were accepted by the authorities. The number of complaints has gone up from 500 in 1993 to 70,000 every year. However, one cannot say that cases of violation of human rights have declined. These studies are based on secondary documents—annual reports of the NHRC. They are descriptive details of the powers and functions of the NHRC. They are not analytical. Sumanta Banerjee observes that in several cases the state governments find ways to defy the orders of the Commission. 'In fact, ever since its birth in 1993 the NHRC had remained, mentally and physically, disabled child—its scope of both jurisdiction and intervention being strictly limited by the Indian government. There are inbuilt, well-contrived restrictions that render it infructuous' (2003: 424).

The state has accepted its responsibility as directed by the Indian constitution and international declarations to safeguard human rights. But despite active national and international human rights groups, violations of human rights in one or another form continue unabated. The question arises, why are the human rights groups not able to mobilise a large number of people against the violation? Why are these groups by and large confined to a small group of the middle class.

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